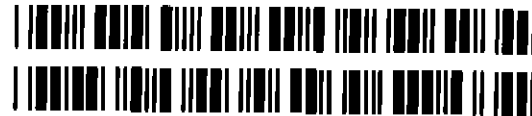


Chief Judge Lasnik

FILED
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OCT 26 2006
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY
BY



05-CR-00270-PLAGR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

COLUMBIA MEDICAL SYSTEMS, INC.,

Defendant.

NO. CR05-270L

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Susan Loitz, Assistant United States Attorney and Robert Westinghouse, for said District, Defendant, Columbia Medical Systems, Inc., and its attorney, Mark Mestel, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charges contained in the Superseding Indictment.

a. Conspiracy to Commit the Money Laundering Offense of Title 18, United States Code, Section 1956(a)(1)(B)(I), in violation of Title 18, United States Code, 1956(h), as charged in Count 17.

By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document. Defendant further understands that before entering its plea of

PLEA AGREEMENT/
U.S. V. COLUMBIA MEDICAL SYSTEMS - 1
CR05-270L

UNITED STATES ATTORNEY
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
(206) 553-7970

1 guilty, a corporate officer of the Defendant will be placed under oath. Any statement
2 given by corporate officer under oath may be used by the United States in a prosecution
3 for perjury or false statement.

4 2. Elements of the Offense. The elements of the offense of Conspiracy, as
5 charged in Count 17, in violation of Title 18, United States Code, Section 1956(h), are as
6 follows:

7 (1) Beginning on or about February 26, 1999 and continuing through at least
8 September 26, 2000, the defendant entered into an agreement with two or more people to
9 conduct a financial transaction involving property that represented the proceeds of
10 interstate transportation of stolen property;

11 (2) The defendant knew that the property represented the proceeds of interstate
12 transportation of stolen property;

13 (3) The defendant knew that the transaction was designed in whole or in part to
14 conceal or disguise the nature, source, ownership, or control of the proceeds of interstate
15 transportation of stolen medical devices; and

16 (4) At least one member of the conspiracy performed at least one overt act for
17 the purpose of carrying out the conspiracy.

18 3. The Penalties. Defendant understands that the statutory penalties for the
19 offense of Conspiracy to Engage in Money Laundering as charged in Count 17 are as
20 follows:

21 a. Count 17 (Conspiracy): a fine of up to Five Hundred Thousand
22 Dollars (\$500,000.00) or twice the amount of the financial transactions, whichever is
23 greater, and a four hundred dollar (\$400.00) special assessment. If Defendant receives a
24 sentence of probation, the probationary period could be up to five (5) years. Defendant
25 agrees that the special assessment shall be paid at or before the time of sentencing.

26 Defendant further understands that a consequence of pleading guilty may include
27 the forfeiture of certain property either as a part of the sentence imposed by the Court, or
28 as a result of civil judicial or administrative process.

1 Defendant agrees that any monetary penalty the Court imposes, including the
 2 special assessment, fine, costs or restitution, is due and payable immediately, and further
 3 agrees to submit a completed Financial Statement of Debtor form as requested by the
 4 United States Attorney's Office.

5 4. Rights Waived by Pleading Guilty. Defendant understands that by pleading
 6 guilty, it knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty and to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial before a jury of its peers;
- 9 c. The right to the effective assistance of counsel at trial, including, if
 10 Defendant could not afford an attorney, the right to have the Court appoint one for
 11 Defendant;
- 12 d. The right to be presumed innocent until guilt has been established
 13 beyond a reasonable doubt at trial;
- 14 e. The right to confront and cross-examine witnesses against Defendant
 15 at trial;
- 16 f. The right to compel or subpoena witnesses to appear on its behalf at
 17 trial;
- 18 g. The right to testify or to remain silent at trial, at which trial such
 19 silence could not be used against Defendant; and
- 20 h. The right to appeal a finding of guilt or any pretrial rulings.

21 5. United States Sentencing Guidelines. Defendant understands and
 22 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
 23 under the United States Sentencing Guidelines, together with the other factors set forth in
 24 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
 25 of the offenses; (2) the history and characteristics of the defendant; (3) the need for the
 26 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
 27 provide just punishment for the offense; (4) the need for the sentence to afford adequate
 28 deterrence to criminal conduct; (5) the need for the sentence to protect the public from

1 further crimes of the defendant; (6) the need to provide the defendant with educational and
2 vocational training, medical care, or other correctional treatment in the most effective
3 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
4 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
5 similar conduct who have similar records. Accordingly, Defendant understands and
6 acknowledges that:

7 a. The Court will determine its applicable Sentencing Guidelines range
8 at the time of sentencing;

9 b. After consideration of the Sentencing Guidelines and the factors in
10 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
11 maximum term authorized by law;

12 c. The Court is not bound by any recommendation regarding the
13 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
14 range offered by the parties or the United States Probation Department, or by any
15 stipulations or agreements between the parties in this Plea Agreement; and

16 d. Defendant may not withdraw a guilty plea solely because of the
17 sentence imposed by the Court.

18 6. Ultimate Sentence. Defendant acknowledges that no one has promised or
19 guaranteed what sentence the Court will impose.

20 7. Forfeiture. Defendant shall enter into a Preliminary Order of Forfeiture in
21 the same form as that entered into by Tuyet Nguyen in CR05-270 RSL, agreeing to forfeit
22 Four Hundred Thousand (\$400,000.00) which shall be joint and several between Columbia
23 Medical Systems, Tuyet Nguyen and Phu Nguyen.

24 8. Statement of Facts. The government and defendant adopt as the factual
25 basis for this plea agreement, the evidence presented at the trial in the case United States v.
26 Tuyet Nguyen, et. al, CR05-270RSL, Western District of Washington. Defendant admits
27 it is guilty of the offense of conviction.
28

1 9. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
2 the United States Attorney's Office for the Western District of Washington agrees to move
3 to dismiss the remaining counts in the Indictment at the time of sentencing and not to
4 prosecute Defendant for any additional offenses known to it as of the time of this
5 Agreement that are based upon evidence in its possession at this time, or that arise out of
6 the conduct giving rise to this investigation. In this regard, Defendant recognizes the
7 United States has agreed not to prosecute all of the criminal charges the evidence
8 establishes were committed by Defendant solely because of the promises made by
9 Defendant in this Agreement. Defendant agrees, however, that for purposes of preparing
10 the Presentence Report, the United States Attorney's Office will provide the United States
11 Probation Office with evidence of all conduct committed by Defendant.

12 Defendant agrees that any charges to be dismissed before or at the time of
13 sentencing were substantially justified in light of the evidence available to the
14 United States, were not vexatious, frivolous or taken in bad faith, and do not provide
15 Defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
16 105-119(1997).

17 10. Breach, Waiver, and Post-Plea Conduct. Defendant agrees that if it breaches
18 this Plea Agreement, the United States may withdraw from this Plea Agreement and
19 Defendant may be prosecuted for all offenses for which the United States has evidence.
20 Defendant agrees not to oppose any steps taken by the United States to nullify this Plea
21 Agreement, including the filing of a motion to withdraw from the Plea Agreement.
22 Defendant also agrees that if it is in breach of this Plea Agreement, Defendant has waived
23 any objection to the reinstitution of any charges in the Indictment that were previously
24 dismissed or any additional charges that had not been prosecuted.

25 Defendant further understands that if, after the date of this Agreement, it should
26 engage in illegal conduct, or conduct that is in violation of its conditions of release
27 (examples of which include, but are not limited to: obstruction of justice, failure to appear
28 for a court proceeding, criminal conduct while pending sentencing, and false statements to

1 law enforcement agents, the Pretrial Services Officer, Probation Officer or Court), the
2 United States is free under this Agreement to file additional charges against Defendant or
3 to seek a sentence that takes such conduct into consideration. Such a sentence could
4 include a sentencing enhancement under the United States Sentencing Guidelines or an
5 upward departure from the applicable sentencing guidelines range.

6 11. Waiver of Appeal As part of this Plea Agreement and on the condition that
7 the Court imposes a sentence that is within or below the Sentencing Guidelines range (or
8 the statutory mandatory minimum, if greater than the Guidelines range) that is determined
9 by the Court at the time of sentencing, Defendant waives to the full extent of the law:

- 10 a. any right conferred by Title 18, United States Code, Section 3742 to appeal
11 the sentence; and
12 b. any right to bring a collateral attack against the conviction and sentence,
13 including any restitution order imposed, except as it may relate to the
14 effectiveness of legal representation

15 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
16 attacking (except as to effectiveness of legal representation) the conviction or sentence in
17 any way, the United States may prosecute Defendant for any counts, including those with
18 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
19 Agreement.

20 12. Voluntariness of Plea. Defendant agrees that it has entered into this Plea
21 Agreement freely and voluntarily, and that no threats or promises, other than the promises
22 contained in this Plea Agreement, were made to induce Defendant to enter this plea of
23 guilty.

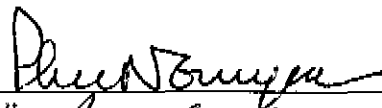
24 13. Statute of Limitations. In the event this Agreement is not accepted by the
25 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
26 the statute of limitations shall be deemed to have been tolled from the date of the Plea
27 Agreement to: (1) 30 days following the date of non-acceptance of the Plea Agreement by
28

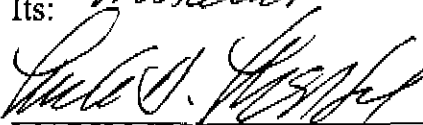
1 the Court; or (2) 30 days following the date on which a breach of the Plea Agreement by
2 Defendant is discovered by the United States Attorney's Office.

3 14. Completeness of Agreement. The United States and Defendant
4 acknowledge that these terms constitute the entire Plea Agreement between the parties.
5 This Agreement binds only the United States Attorney's Office for the Western District of
6 Washington. It does not bind any other United States Attorney's Office or any other
7 office or agency of the United States, or any state or local prosecutor.

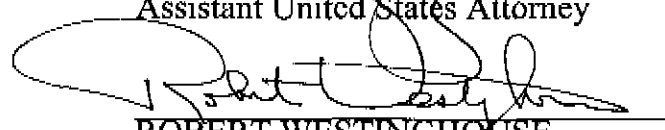
8 Dated this 23rd day of October, 2006.

9 COLUMBIA MEDICAL SYSTEMS, INC.

10
11 
12 By: Plaintiff
13 Its: Plaintiff

14 
15 MARK MESTEL
16 Attorney for Defendant

17 
18 SUSAN LOITZ
19 Assistant United States Attorney

20 
21 ROBERT WESTINGHOUSE
22 Assistant United States Attorney